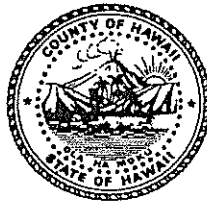


Harry Kim
Mayor



County of Hawaii

PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-8742

CERTIFIED MAIL

7000 0600 0024 2904 9571

APR 22 2002

Ms. Ouida Trahan
P.O. Box 469
Papaikou, HI 96781-0469

Dear Ms. Trahan:

Use Permit Application (USE 02-001)

Applicant: Ouida Trahan

Request: To Establish a Three-Bedroom Bed and Breakfast

Tax Map Key: 2-7-28:12

The Planning Commission at its duly held public hearing on March 22, 2002, voted to approve above-referenced application. Use Permit No. 188 is hereby issued to allow the existing three-bedroom bed and breakfast operation within an existing dwelling situated in the County's Single Family Residential (RS-10) zoned district. The property is located along the south side of the Old Mamalahoa Highway approximately 550 feet from the Old Mamalahoa Highway and Hawaii Belt Road intersection, Papaikou, South Hilo, Hawaii.

Approval of this request is based on the following:

In considering a Use Permit for any proposed use, Rule 7 of the Planning Commission relating to Use Permits requires that such action conform to the following guidelines:

- (A) The granting of the proposed use shall be consistent with the general purpose of the zoned district, the intent and purpose of the Zoning Code and the County General Plan;

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- (B) The granting of the proposed use shall not be materially detrimental to the public welfare nor cause substantial, adverse impact to the community's character or to surrounding properties; and
- (C) The granting of the proposed use shall not unreasonably burden public agencies to provide roads and streets, sewer, water, drainage, schools, police and fire protection and other related infrastructure.

The applicant is requesting to allow the existing three-bedroom bed and breakfast operation on the second floor of the four-bedroom single-family dwelling. The applicant has been in operation since 1989. The three-bedroom bed and breakfast operation would meet the guidelines for approval of a Use Permit, for the reasons outlined below. In addition, no complaints have been received from the general public or adjacent landowners.

The granting of the proposed use shall be consistent with the general purpose of the zoned district, the intent and purpose of the Zoning Code, and the County General Plan. According to the Zoning Code, Single Family Residential districts "provide for low density residential area, for urban and suburban family life". Single-family dwellings, family care homes, neighborhood parks, and "buildings and uses normally considered directly accessory to the above permitted uses" are permitted in this district. The applicant proposes to have a three-bedroom bed and breakfast establishment in the existing dwelling.

Bed and breakfast accommodations are increasingly popular with visitors to the island who seek a quieter, more authentic experience of local life. Bed and breakfast businesses provide an economic opportunity for County residents, who can supplement their incomes by sharing their homes with visitors. Recognizing this benefit, Ordinance No. 92-104 was passed by the County Council, effective September 28, 1992, to ensure that bed and breakfast businesses remain secondary to the principal use of the residence as a single family dwelling. Subsequently, Ordinance No. 00 152, adopted by the Hawaii County Council and effective on December 26, 2000, amended Section 25-4-7 to no longer require plan approval for the establishment of a bed and breakfast in the RS district within the State Land Use Urban District provided that a Use Permit is obtained. Any impacts from the proposed use can be properly addressed and mitigated through securing a Use Permit. The applicant proposes a 3-bedroom bed and breakfast establishment within an existing single family dwelling.

The applicant will reside on the first floor of the tri-level dwelling. The subject property is located within a single family residential neighborhood; as such, the bed and breakfast activity would complement and be accessory to the dwelling being used as a residence. The applicant will be the only employee. Adequate utilities and services are

available at the site. The property is approximately 24,395 square feet in size. There is adequate space along the existing dwelling to accommodate their bed and breakfast guests parking. Thus, the three (3) bedroom bed and breakfast establishment will not substantially alter the character of the surrounding neighborhood, and it will be consistent with the intent of the Zoning Code for this district.

The General Plan designation for this area is Low Density Urban Development, which allows for single family residential uses, ancillary community and public uses, and convenience-type commercial uses. The bed and breakfast establishment will be accessory to the single family dwelling. As such, the use will not alter the appearance or character of the neighborhood. Although the bed and breakfast establishment would be open to the public on a daily basis, requests will be by reservations.

The bed and breakfast operation would complement the following policies of the General Plan:

Economic Element

- Economic development and improvements shall be in balance with the physical and social environments of the island of Hawaii.
- The County shall provide an economic environment which allows new, expanded, or improved economic opportunities that are compatible with the County's natural and social environment.
- The County of Hawaii shall encourage the development of a visitor industry which is consistent with the social, physical and economic goals of the residents of the County.

Land Use Element

- The County shall encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.
- The development of commercial facilities should be designated to fit into the locale with minimal intrusion while providing the desired services.

Therefore, the use would operate within the parameters of being single family residential in character, is consistent with the General Plan designation and is in keeping with the policies of the General Plan.

The granting of the proposed use shall not be materially detrimental to the public welfare nor cause substantial, adverse impact to the community's character or to surrounding properties. The existing dwelling is located in the Anderton Camp of Papaikou which is primarily in single-family residential uses. The property has adequate landscaping to mitigate any possible noise and visual impacts on the neighbors, and adequate public services and utilities are available to accommodate the use. No objections or comments have been received from the general public or adjacent landowners. The bed and breakfast use will be accessory to the main use of the property as a single-family residence, in keeping with the primary use of surrounding properties. There are no other approved bed and breakfast establishments in this area. It is not anticipated that the establishment of this bed and breakfast will affect other similar uses in the area.

The granting of the proposed use will not unreasonably burden public agencies to provide roads and streets, sewer, water, drainage improvements, schools, police and fire protection and other related infrastructure. Access to the property is from the Old Mamalahoa Highway, a County-maintained road with an approximate 20-foot pavement width. It is anticipated that there would not be any traffic impacts generated by the three-bedroom bed and breakfast operation. The bed and breakfast establishment is looked upon as a use that is accessory and subordinate to the use of a residence by the owners and therefore not anticipated to generate any more traffic than that expected from single family dwelling uses. Wastewater will be disposed of in the existing cesspool. Although the Department of Environmental Management requested a connection to the sewer system because of the possible contamination of Kapue Stream, a dye test by Jacoby Engineering, Inc. concluded that the existing cesspool use has no impact on the stream's water quality. Police and fire protection are available in Hilo. The applicant has installed the backflow preventer as required by the Department of Water Supply and will abide by the Department of Health standards on guidelines for Bed and Breakfast operations. The applicant would be required to comply with applicable agencies' requirements as a condition to establishing the use at this location.

Based on the above, it is recommended that this request be approved subject to the following conditions. However, should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke the permit.

1. The applicant, successors, or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant shall comply with all applicable requirements as stated in the Zoning Code regulating bed and breakfast establishments.

3. The bed and breakfast shall be limited to the use of three (3) bedrooms.
4. The applicant shall submit verification that the installation of the backflow preventer on the property meets with the approval of the Department of Water Supply.
5. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials, be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.
6. The applicant shall comply with all applicable laws, rules, regulations and requirements of other affected agencies, including the Department of Health and the Department of Water Supply, for the bed and breakfast use.
7. A written final status report shall be submitted to the Planning Director upon compliance with all conditions of approval.
8. An initial extension of time for the performance of conditions may be granted by the Planning Director upon the following circumstances:
 - A. Non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors, or assigns, and that are not the result of their fault or negligence.
 - B. Granting of the time extension would not be contrary to the original reasons for granting of the permit.
 - C. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
 - D. The time extension granted does not exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).

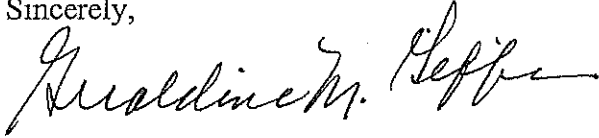
This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Ms. Ouida Trahan

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Should you have any questions, please contact Alice Kawaha or Susan Gagorik of the Planning Department at 961-8288.

Sincerely,

A handwritten signature in cursive script, appearing to read "Geraldine M. Giffin".

Geraldine M. Giffin, Chairman
Planning Commission

Ltrahan01PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division - Hilo
Brian Minaai, Director/DOT-Highways, Honolulu
Ms. Sharon Miller